

REMARKS / ARGUMENTS

Claims 1-4 remain in the application. Claim 1 is being amended. Claim 5-10 have been added.

In the Office Action, the Examiner rejected claims 1, 3, and 4 as being unpatentable over Doyle (U.S. Patent No. 5,171,593) in view of Schechter (U.S. Patent No. 3,079,037). The Examiner also rejected claim 2 as being unpatentable over Doyle in view of Schechter and further in view of Chum et al (U.S. Patent No. 5,685,128).

In response to the Examiner's prior art rejections, we have amended claim 1 to more clearly distinguish the claimed subject matter from the prior art. In particular, we have amended the claim to make it clear that the lid on which the container is placed is shaped to interconnect with the top surface but not the bottom surface of the container. Support for this amendment can be found on page 3 line 26 through page 4, line 8, and in Figures 1, 2, 3 and 4, where it is clear that the lid is shaped to mate with the a top mating surface but not the bottom surface of the container. We submit that these amendments overcome the rejections raised by the Examiner, for the following reasons.

While Doyle discloses a method for packaging fruits and vegetables by placing the fruits or vegetables in a food container, and overwrapping the container with a sheet of perforated flexible film, Doyle does not disclose the step of placing the fruits or vegetables in a container suitable for reuse as a food storage container, or the step of placing the container on a reusable lid for the container, or the step of overwrapping the lid and container with a flexible sheet.

Schechter does not disclose the step of overlapping the container and the lid with a sheet of flexible material, or the step of folding the sheet material under the lid so that edge portions overlap, or the step of coupling the overlapping portions together so as to secure the lid against the container. Rather, Schechter discloses a lid which is interconnected to the bottom of the container during handling and display. Schechter utilizes a special lid which has a mating surface comprising on upwardly extending rib 26 for interconnecting the lid to the bottom of the container. In contrast, claim 1 as amended recites a lid having a top surface having a generally flat central portion sized to receive the bottom surface of the container. Unlike Schechter, the claimed method involved the step of securing the lid to the container by overwrapping the lid and container with a sheet of flexible material, not by means of a special lid having an extra mating surface.

We submit that the construction defined in claim 1 is superior to that of Schechter, as it allows for the use of simple, commercially available containers and lids, having a single set of mating services for mating the bottom of the lid to the top of the container. In contrast, Schechter requires the use of a custom made container and lid having two sets of mating surfaces including rib 26 extending upwardly from the lid, which allows for the lid to be interconnected to either the bottom of the container or the top of the

container. The lid and container construction of Schechter is more complex, and presumably more expensive, than the claimed lid and container construction.

We further submit that there is no suggestion in either Schechter or Doyle that the second set of mating surfaces of Schechter could be replaced by the claimed steps of overwrapping a lid having a flat central top portion with a flexible sheet and securing the lid to the bottom of the container by the flexible sheet. Furthermore, Chum et al. merely discloses the use of a gas permeable film. We therefore submit that claim 1 as amended defines subject matter which is not obvious in view of the combined teachings of the prior art.

Claim 5-10 have been included to round out the claim coverage. While new independent claim 6 is broader in scope than claim 1 in some respects, claim 6 includes, in clauses (a) and (b), the same language that distinguishes claim 1 from the cited prior art. Unlike Schechter, claim 6 defines a method which secures the lid to the container, not by interconnecting the lid to the bottom of the container by means of a second set of mating surface, but rather, by surrounding the lid and container with a layer of flexible material, and by coupling together open portions of the layer. Accordingly, claim 6 is allowable over the prior art for essentially the same reasons that claim 1 is allowable.

In view of the above considerations, we submit that claims as amended, define subject matter which is not obvious in view of the prior art.

We hereby request a one month extension of time for responding to the Office Action. Our cheque no. 5902 includes the amount of \$55.00 for one month extension of time. Please charge any additional fees payable to our deposit account number 02-2095.

We submit that this application is now in condition for allowance, this action is respectfully requested.

Requestfully submitted,
EMMETT FLYNN



Timothy J. Sinnott
Registration No. 31,083

/sc
Bereskin & Parr
Box 401
40 King Street West
Toronto, Ontario
Canada M5H 3Y2
Telephone: (416) 957-1694
Fax: (416) 361-1398